

## NOTICES OF EXEMPT RULEMAKING

The Administrative Procedure Act requires the *Register* publication of the rules adopted by the state's agencies under an exemption from all or part of the Administrative Procedure Act. Some of these rules are exempted by A.R.S. §§ 41-1005 or 41-1057; other rules are exempted by other statutes; rules of the Corporation Commission are exempt from Attorney General review pursuant to a court decision as determined by the Corporation Commission.

### NOTICE OF EXEMPT RULEMAKING

#### TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS; SECURITIES REGULATION

##### CHAPTER 2. CORPORATION COMMISSION

##### FIXED UTILITIES

##### PREAMBLE

1. **Sections Affected**

R14-2-212	Amend
R14-2-312	Amend
R14-2-411	Amend
R14-2-510	Amend
R14-2-610	Amend
R14-2-902	Amend
R14-2-1002	Amend
R14-2-1103	Amend
R14-2-1603	Amend
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statutes: A.R.S. §§ 40-202, 40-204, 40-281, 40-282, 40-321, 40-361, 40-365, 40-367, 41-1072 through -1078 and Title 40 generally

Constitutional authority: Arizona Constitution, Article 15, Sections 1, 2, 3, 4, 6, 7 and 9
3. **The effective date of the rules:**

December 31, 1998
4. **A list of all previous notices appearing in the Register addressing the exempt rule:**

Notice of Docket Opening: 4 A.A.R. 39, September 25, 1998.  
Notice of Proposed Rulemaking: 4 A.A.R. 41, October 9, 1998.
5. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Ray T. Williamson, Acting Director, Utilities Division

Address: Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

Telephone: (602) 542-0745

Fax: (602) 542-2129
6. **An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from the regular rulemaking procedures:**

The purpose of this rulemaking is to implement time-frames for the processing of applications for Certificates of Convenience and Necessity ("CC&N") and applications to amend or change the status of any existing CC&N. These amendments implement requirements identified in Arizona Revised Statutes §§ 41-1072 through -1078.

The Arizona Corporation Commission is exempt from regular rulemaking procedures pursuant to A.R.S. § 41-1057.
7. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable.
8. **The summary of the economic, small business, and consumer impact:**

The proposed amendments to R14-2-212, R14-2-312, R14-2-411, R14-2-510, R14-2-610, R14-2-902, R14-2-1002, R14-2-1103 and R14-2-1603 establish the time-frames within which the Utilities Division (the "Division") of the Arizona Corporation Commission (the "Commission") shall process the applications for Certificate of Convenience and Necessity ("CC&N") by utility

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service providers under its jurisdiction. This rulemaking is mandated by Arizona Revised Statutes §§ 41-1072 through 41-1078 (the "time-frame statutes").

The increased cost to the Commission to provide staff time to draft the rule amendments and an economic and small business and consumer impact statement is minimal. The rules are not expected to result in any change in revenues. There are no expected increases in costs arising from noncompliance with the time-frames set by the rule.

Since no fees are collected from companies that apply for a CC&N, the time-frame rule will have no financial impact. All parties however, will benefit from a clear, concise, and an understandable certification process with definite time-frames. The use of definite time-frames prevents misunderstanding and promotes better communication between the Commission and the regulated public.

9. **A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**  
None

10. **A summary of the principal comments and the agency response to them:**

On October 16, 1998, U S WEST Communications, Inc. ("U S WEST") filed written comments on the amendments to the Rules. On November 6, 1998, the Division filed its Response to Public Comments. At the public comment hearing on the amendments to the Rules that took place on November 10, 1998, U S WEST and MCI Telecommunications Inc. ("MCI") made public comments.

U S WEST and MCI support the amendments to the Rules. U S WEST believes that the proposed Rules should also include timeframes within which the Commission must process applications relative to the classification of competitive and non-competitive services. The Commission disagrees that time frames should be established in this rulemaking for classification of competitive and non-competitive services, because such an application is not an application for a license. The Commission believes that any procedures specifying timeframes for designation of competitive services should be established as Commission policy rather than by administrative rule. These amendments to the Rules are being adopted pursuant to the requirements of A.R.S. §§ 41-1072 through 41-1078, to establish timeframes for applications for licenses.

11. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**  
Not applicable

12. **Incorporations by reference and their location in the rules:**  
None

13. **Was this rule previously adopted as an emergency rule?**  
No

14. **The full text of the rules:**

**TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS; SECURITIES REGULATION**

**CHAPTER 2. CORPORATION COMMISSION**  
**FIXED UTILITIES**

**ARTICLE 2. ELECTRIC UTILITIES**

Section  
R14-2-212. Administrative and hearing requirements

**ARTICLE 3. GAS UTILITIES**

R14-2-312. Administrative and hearing requirements

**ARTICLE 4. WATER UTILITIES**

R14-2-411. Administrative and hearing requirements

**ARTICLE 5. TELEPHONE UTILITIES**

R14-2-510. Administrative and hearing requirements

**ARTICLE 6. SEWER UTILITIES**

R14-2-610. Administrative and hearing requirements

**ARTICLE 9. CUSTOMER-OWNED PAY TELEPHONES**

R14-2-902. Application for Certificate of Convenience and Necessity

**ARTICLE 10. ALTERNATIVE OPERATOR SERVICES**

R14-2-1002. Application for Certificate of Convenience and Necessity

**ARTICLE 11. COMPETITIVE TELECOMMUNICATIONS SERVICES**

R14-2-1103. Certificates of Convenience and Necessity Required

**ARTICLE 16. RETAIL ELECTRIC COMPETITION**

R14-2-1603. Certificates of Convenience and Necessity

**ARTICLE 2. ELECTRIC UTILITIES**

**R14-2-212. Administrative and hearing requirements**

- A. No change.
- B. No change.
- C. No change.
- D. No change.
- E. Time-frames for processing applications for Certificates of Convenience and Necessity

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1. This rule prescribes time-frames for the processing of any application for a Certificate of Convenience and Necessity issued by the Arizona Corporation Commission pursuant to this Article. These time-frames shall apply to applications filed on or after the effective date of this rule.
2. Within 120 calendar days after receipt of an application for a new Certificate of Convenience and Necessity, or to amend or change the status of any existing Certificate of Convenience and Necessity, staff shall notify the applicant, in writing, that the application is either administratively complete or deficient. If the application is deficient, the notice shall specify all deficiencies.
3. Staff may terminate an application if the applicant does not remedy all deficiencies within 60 calendar days of the notice of deficiency.
4. After receipt of a corrected application, staff shall notify the applicant within 30 calendar days if the corrected application is either administratively complete or deficient. The time-frame for administrative completeness review shall be suspended from the time the notice of deficiency is issued until staff determines that the application is complete.
5. Within 150 days after an application is deemed administratively complete, the Commission shall approve or reject the application.
6. For purposes of A.R.S. § 41-1072, et seq., the Commission has established the following time-frames:
  - a. Administrative completeness review time-frame:  
120 calendar days.
  - b. Substantive review time-frame:  
150 calendar days.
  - c. Overall time-frame:  
270 calendar days.
7. If an applicant requests, and is granted, an extension or continuance, the appropriate time-frames shall be tolled from the date of the request during the duration of the extension or continuance.
8. During the substantive review time-frame, the Commission may, upon its own motion or that of any interested party to the proceeding, request a suspension of the time-frame rules.
- ~~E. Incomplete application for a Certificate of Convenience, transfer of a Certificate of Convenience, rate review~~
  - ~~1. Applications will not be assigned a docket number until the application is complete according to the Arizona Revised Statutes and the Commission's rules and regulations.~~
  - ~~2. The Commission shall within 15 days of receipt return the incomplete application making note of such deficiencies.~~
- F. No change.
- G. No change.
- H. No change.
- I. No change.
- J. No change.

**ARTICLE 3. GAS UTILITIES**

- R14-2-312. Administrative and hearing requirements**
- A. No change.
  - B. No change.
  - C. No change.
  - D. No change.
  - E. Time-frames for processing applications for Certificates of Convenience and Necessity

1. This rule prescribes time-frames for the processing of any application for a Certificate of Convenience and Necessity issued by the Arizona Corporation Commission pursuant to this Article. These time-frames shall apply to applications filed on or after the effective date of this rule.
2. Within 120 calendar days after receipt of an application for a new Certificate of Convenience and Necessity, or to amend or change the status of any existing Certificate of Convenience and Necessity, staff shall notify the applicant, in writing, that the application is either administratively complete or deficient. If the application is deficient, the notice shall specify all deficiencies.
3. Staff may terminate an application if the applicant does not remedy all deficiencies within 60 calendar days of the notice of deficiency.
4. After receipt of a corrected application, staff shall notify the applicant within 30 calendar days if the corrected application is either administratively complete or deficient. The time-frame for administrative completeness review shall be suspended from the time the notice of deficiency is issued until staff determines that the application is complete.
5. Within 150 days after an application is deemed administratively complete, the Commission shall approve or reject the application.
6. For purposes of A.R.S. § 41-1072, et seq., the Commission has established the following time-frames:
  - a. Administrative completeness review time-frame:  
120 calendar days.
  - b. Substantive review time-frame:  
150 calendar days.
  - c. Overall time-frame:  
270 calendar days.
7. If an applicant requests, and is granted, an extension or continuance, the appropriate time-frames shall be tolled from the date of the request during the duration of the extension or continuance.
8. During the substantive review time-frame, the Commission may, upon its own motion or that of any interested party to the proceeding, request a suspension of the time-frame rules.
- ~~E. Incomplete application for a Certificate of Convenience, transfer of a Certificate of Convenience, rate review~~
  - ~~1. Applications will not be assigned a docket number until the application is complete according to the Arizona Revised Statutes and the Commission's rules and regulations.~~
  - ~~2. The Commission shall within 15 days of receipt return the incomplete application making note of such deficiencies.~~
- F. No change.
- G. No change.
- H. No change.
- I. No change.
- J. No change.

**ARTICLE 4. WATER UTILITIES**

- R14-2-411. Administrative and hearing requirements**
- A. No change.
  - B. No change.
  - C. Time-frames for processing applications for Certificates of Convenience and Necessity
    1. This rule prescribes time-frames for the processing of any application for a Certificate of Convenience and Necessity issued by the Arizona Corporation Commis-

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sion pursuant to this Article. These time-frames shall apply to applications filed on or after the effective date of this rule.

2. Within 30 calendar days after receipt of an application for a new Certificate of Convenience and Necessity, or to amend or change the status of any existing Certificate of Convenience and Necessity, staff shall notify the applicant in writing that the application is either administratively complete or deficient. If the application is deficient, the notice shall specify all deficiencies.
  3. Staff may terminate an application if the applicant does not remedy all deficiencies within 60 calendar days of the notice of deficiency.
  4. After receipt of a corrected application, staff shall notify the applicant within 30 calendar days if the corrected application is either administratively complete or deficient. The time-frame for administrative completeness review shall be suspended from the time the notice of deficiency is issued until staff determines that the application is complete.
  5. Within 150 days after an application is deemed administratively complete, the Commission shall approve or reject the application.
  6. For purposes of A.R.S. § 41-1072, et seq., the Commission has established the following time-frames:
    - a. Administrative completeness review time-frame: 30 calendar days.
    - b. Substantive review time-frame: 150 calendar days.
    - c. Overall time-frame: 180 calendar days.
  7. If an applicant requests, and is granted, an extension or continuance, the appropriate time-frames shall be tolled from the date of the request during the duration of the extension or continuance.
  8. During the substantive review time-frame, the Commission may, upon its own motion or that of any interested party to the proceeding, request a suspension of the time-frame rules.
- ~~G. Incomplete application for a Certificate of Convenience, transfer of a Certificate of Convenience, rate review-~~
- ~~1. Applications will not be assigned a docket number until the application is complete according to the Arizona Revised Statutes and the Commission's rules and regulations.~~
  - ~~2. The Commission shall within 15 days of receipt return the incomplete application making note of such deficiencies.~~
- D. No change.  
E. No change.  
F. No change.  
G. No change.

**ARTICLE 5. TELEPHONE UTILITIES**

**R14-2-510. Administrative and hearing requirements**

- A. No change.
- B. No change.
- C. No change.
- D. No change.
- E. Time-frames for processing applications for Certificates of Convenience and Necessity
  1. This rule prescribes time-frames for the processing of any application for a Certificate of Convenience and Necessity issued by the Arizona Corporation Commission pursuant to this Article. These time-frames shall

apply to applications filed on or after the effective date of this rule.

2. Within 30 calendar days after receipt of an application for a new Certificate of Convenience and Necessity, or to amend or change the status of any existing Certificate of Convenience and Necessity, staff shall notify the applicant in writing that the application is either administratively complete or deficient. If the application is deficient, the notice shall specify all deficiencies.
  3. Staff may terminate an application if the applicant does not remedy all deficiencies within 60 calendar days of the notice of deficiency.
  4. After receipt of a corrected application, staff shall notify the applicant within 30 calendar days if the corrected application is either administratively complete or deficient. The time-frame for administrative completeness review shall be suspended from the time the notice of deficiency is issued until staff determines that the application is complete.
  5. Within 150 days after an application is deemed administratively complete, the Commission shall approve or reject the application.
  6. For purposes of A.R.S. § 41-1072, et seq., the Commission has established the following time-frames:
    - a. Administrative completeness review time-frame: 30 calendar days.
    - b. Substantive review time-frame: 150 calendar days.
    - c. Overall time-frame: 180 calendar days.
  7. If an applicant requests, and is granted, an extension or continuance, the appropriate time-frames shall be tolled from the date of the request during the duration of the extension or continuance.
  8. During the substantive review time-frame, the Commission may, upon its own motion or that of any interested party to the proceeding, request a suspension of the time-frame rules.
- ~~F. Incomplete application for a Certificate of Convenience, transfer of a Certificate of Convenience, rate review, or financing requests~~
- ~~1. Applications will not be docketed until the application is complete according to the Arizona Revised Statutes and the Commission's rules and regulations.~~
  - ~~2. The Commission shall within 15 days of receipt return the application making note of such deficiencies.~~
- F. No change.  
G. No change.  
H. No change.  
I. No change.  
J. No change.

**ARTICLE 6. SEWER UTILITIES**

**R14-2-610. Administrative and hearing requirements**

- A. No change.
- B. No change.
- C. Time-frames for processing applications for Certificates of Convenience and Necessity
  1. This rule prescribes time-frames for the processing of any Application for a Certificate of Convenience and Necessity issued by the Arizona Corporation Commission pursuant to this Article. These time-frames shall apply to applications filed on or after the effective date of this rule.
  2. Within 30 calendar days after receipt of an application for a new Certificate of Convenience and Necessity, or

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to amend or change the status of any existing Certificate of Convenience and Necessity, staff shall notify the applicant, in writing, that the application is either administratively complete or deficient. If the application is deficient, the notice shall specify all deficiencies.

3. Staff may terminate an application if the applicant does not remedy all deficiencies within 60 calendar days of the notice of deficiency.
4. After receipt of a corrected application, staff shall notify the applicant within 30 calendar days if the corrected application is either administratively complete or deficient. The time-frame for administrative completeness review shall be suspended from the time the notice of deficiency is issued until staff determines that the application is complete.
5. Within 150 days after an application is deemed administratively complete, the Commission shall approve or reject the application.
6. For purposes of A.R.S. § 41-1072, et seq., the Commission has established the following time-frames:
  - a. Administrative completeness review time-frame: 30 calendar days.
  - b. Substantive review time-frame: 150 calendar days.
  - c. Overall time-frame: 180 calendar days.
7. If an applicant requests, and is granted, an extension or continuance, the appropriate time-frames shall be tolled from the date of the request during the duration of the extension or continuance.
8. During the substantive review time-frame, the Commission may, upon its own motion or that of any interested party to the proceeding, request a suspension of the time-frame rules.

**C. ~~Incomplete application for a Certificate of Convenience, transfer of a Certificate of Convenience, rate review, or financing requests~~**

1. ~~Applications will not be docketed until the application is complete according to the Arizona Revised Statutes and the Commission's rules and regulations.~~
2. ~~The Commission shall within 15 days of receipt return the incomplete application making note of such deficiencies.~~

- D. No change.  
E. No change.  
F. No change.  
G. No change.

**ARTICLE 9. CUSTOMER-OWNED PAY TELEPHONES**

**R14-2-902. Application for Certificate of Convenience and Necessity**

- A. No change.
- B. No change.
- C. No change.
- D. No change.
- E. Time-frames for processing applications for Certificates of Convenience and Necessity
  1. This rule prescribes time-frames for the processing of any application for a Certificate of Convenience and Necessity issued by the Arizona Corporation Commission pursuant to this Article. These time-frames shall apply to applications filed on or after the effective date of this rule.
  2. Within 30 calendar days after receipt of an application for a new Certificate of Convenience and Necessity, or to amend or change the status of any existing Certificate

of Convenience and Necessity, staff shall notify the applicant, in writing, that the application is either administratively complete or deficient. If the application is deficient, the notice shall specify all deficiencies.

3. Staff may terminate an application if the applicant does not remedy all deficiencies within 60 calendar days of the notice of deficiency.
4. After receipt of a corrected application, staff shall notify the applicant within 30 calendar days if the corrected application is either administratively complete or deficient. The time-frame for administrative completeness review shall be suspended from the time the notice of deficiency is issued until staff determines that the application is complete.
5. Within 150 days after an application is deemed administratively complete, the Commission shall approve or reject the application, unless a formal hearing is held.
6. For purposes of A.R.S. § 41-1072, et seq., the Commission has established the following time-frames:
  - a. Administrative completeness review time-frame: 30 calendar days.
  - b. Substantive review time-frame: 150 calendar days.
  - c. Overall time-frame: 180 calendar days.
7. If an applicant requests, and is granted, an extension or continuance, the appropriate time-frames shall be tolled from the date of the request during the duration of the extension or continuance.
8. During the substantive review time-frame, the Commission may, upon its own motion or that of any interested party to the proceeding, request a suspension of the time-frame rules.

E-F. Subsequent to adoption of this Article, the Commission shall issue an order setting time limitations within which LECs, as well as all customers of record providing service as of the effective date of this Article, shall comply with the requirements contained herein.

**ARTICLE 10. ALTERNATIVE OPERATOR SERVICES**

**R14-2-1002. Application for Certificate of Convenience and Necessity**

- A. No change.
- B. No change.
- C. No change.
- D. No change.
- E. Time-frames for processing applications for Certificates of Convenience and Necessity
  1. This rule prescribes time-frames for the processing of any Application for a Certificate of Convenience and Necessity issued by the Arizona Corporation Commission pursuant to this Article. These time-frames shall apply to applications filed on or after the effective date of this rule.
  2. Within 365 calendar days after receipt of an application for a new Certificate of Convenience and Necessity, or to amend or change the status of any existing Certificate of Convenience and Necessity, staff shall notify the applicant, in writing, that the application is either administratively complete or deficient. If the application is deficient, the notice shall specify all deficiencies.
  3. Staff may terminate an application if the applicant does not remedy all deficiencies within 60 calendar days of the notice of deficiency.
  4. After receipt of a corrected application, staff shall notify the applicant within 30 calendar days if the corrected

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application is either administratively complete or deficient. The time-frame for administrative completeness review shall be suspended from the time the notice of deficiency is issued until staff determines that the application is complete.

5. Within 365 calendar days after an application is deemed administratively complete, the Commission shall approve or reject the application.
6. For purposes of A.R.S. § 41-1072, et seq., the Commission has established the following time-frames:
  - a. Administrative completeness review time-frame: 365 calendar days.
  - b. Substantive review time-frame: 365 calendar days.
  - c. Overall time-frame: 730 calendar days.
7. If an applicant requests, and is granted, an extension or continuance, the appropriate time-frames shall be tolled from the date of the request during the duration of the extension or continuance.
8. During the substantive review time-frame, the Commission may, upon its own motion or that of any interested party to the proceeding, request a suspension of the time-frame rules.

**ARTICLE 11. COMPETITIVE  
TELECOMMUNICATIONS SERVICES**

**R14-2-1103. Certificates of Convenience and Necessity Required**

- A. All telecommunications companies providing intrastate telecommunications services shall obtain a Certificate of Convenience and Necessity from the Commission, either under this Article, if competitive services are to be provided or, under Article 5. If the Commission determines that the services identified in an Application filed under this Article are not competitive, the Commission may nevertheless grant a Certificate and authorize provision of the services on a noncompetitive basis pursuant to Article 5.
- B. Time-frames for processing applications for Certificates of Convenience and Necessity
  1. This rule prescribes time-frames for the processing of any application for a Certificate of Convenience and Necessity issued by the Arizona Corporation Commission pursuant to this Article. These time-frames shall apply to applications filed on or after the effective date of this rule.
  2. Within 10 calendar days after receipt of an application for a new Certificate of Convenience and Necessity, or to amend or change the status of any existing Certificate of Convenience and Necessity, staff shall notify the applicant, in writing, that the application is either administratively complete or deficient. If the application is deficient, the notice shall specify all deficiencies.
  3. Staff may terminate an application if the applicant does not remedy all deficiencies within 60 calendar days of the notice of deficiency.
  4. After receipt of a corrected application, staff shall notify the applicant within 30 calendar days if the corrected application is either administratively complete or deficient. The time-frame for administrative completeness review shall be suspended from the time the notice of deficiency is issued until staff determines that the application is complete.
  5. Within 270 days after an application is deemed administratively complete, the Commission shall approve or reject the application, unless a formal hearing is held.

6. For purposes of A.R.S. § 41-1072, et seq., the Commission has established the following time-frames:
  - a. Administrative completeness review time-frame: 10 calendar days.
  - b. Substantive review time-frame: 270 calendar days.
  - c. Overall time-frame: 280 calendar days.
7. If an applicant requests, and is granted, an extension or continuance, the appropriate time-frames shall be tolled from the date of the request during the duration of the extension or continuance.
8. During the substantive review time-frame, the Commission may, upon its own motion or that of any interested party to the proceeding, request a suspension of the time-frame rules.

**ARTICLE 16. RETAIL ELECTRIC COMPETITION**

**R14-2-1603. Certificates of Convenience and Necessity**

- A. No change.
- B. No change.
- C. No change.
- D. No change.
- E. No change.
- F. No change.
- G. No change.
- H. No change.
- I. No change.
- J. Time-frames for processing applications for Certificates of Convenience and Necessity
  1. This rule prescribes time-frames for the processing of any application for a Certificate of Convenience and Necessity issued by the Arizona Corporation Commission pursuant to this Article. These time-frames shall apply to applications filed on or after the effective date of this rule.
  2. Within 120 calendar days after receipt of an application for a new Certificate of Convenience and Necessity, or to amend or change the status of any existing Certificate of Convenience and Necessity, staff shall notify the applicant, in writing, that the application is either administratively complete or deficient. If the application is deficient, the notice shall specify all deficiencies.
  3. Staff may terminate an application if the applicant does not remedy all deficiencies within 60 calendar days of the notice of deficiency.
  4. After receipt of a corrected application, staff shall notify the applicant within 30 calendar days if the corrected application is either administratively complete or deficient. The time-frame for administrative completeness review shall be suspended from the time the notice of deficiency is issued until staff determines that the application is complete.
  5. Within 180 calendar days after an application is deemed administratively complete, the Commission shall approve or reject the application.
  6. For purposes of A.R.S. § 41-1072, et seq., the Commission has established the following time-frames:
    - a. Administrative completeness review time-frame: 120 calendar days.
    - b. Substantive review time-frame: 180 calendar days.
    - c. Overall time-frame: 300 calendar days.
  7. If an applicant requests, and is granted, an extension or continuance, the appropriate time-frames shall be tolled

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from the date of the request during the duration of the extension or continuance.

8. During the substantive review time-frame, the Commission may, upon its own motion or that of any interested

party to the proceeding, request a suspension of the time-frame rules.